

REMARKS/ARGUMENTS

Claims 1-18 are pending in this application, of which claims 1, 9, 13, and 15 are independent. Claims 1, 9, 10, and 11 are amended. Claims 19 and 20 are new. Applicant respectfully submits that this Amendment does not add any new matter.

PRIOR ART REJECTIONS

On pages 2-8, the Office Action rejects claims 1, 2, 4-10, 12-18 under 35 U.S.C. § 102(e) as allegedly anticipated by U.S. Patent No. 6,697,845 to Andrews (hereinafter "Andrews"). On pages 8 and 9, the Office Action rejects claims 3 and 11 under 35 U.S.C. § 103(a) as allegedly unpatentable over Andrews in view of Official Notice.

Claim 1 recites "transmitting the extracted first legacy network management message to a **legacy agent**" (emphasis added). Similar subject matter appears in claims 6, 9, and 13. Applicant respectfully submits that Andrews does not disclose, suggest, or teach this subject matter.

On page 4, the Office Action relies upon lines 30-35 of col. 3 and lines 29-30 of col. 7 in Andrews for this subject matter. In particular, the Office Action alleges that Andrews discloses this subject matter by "forwarding the message to a peer agent at the node." On page 10, the Examiner further alleges that the rejections are "broadly interpreting the SNMP peer agent to be the legacy agent."

As set forth in M.P.E.P. § 2111, “during patent examination, the pending claims must be “given their broadest reasonable interpretation consistent with the specification.” See *Phillips v. AWH Corp.*, 415 F.3d 1303 (Fed. Cir. 2005). In addition, the “broadest reasonable interpretation of the claims must also be consistent with the interpretation that those skilled in the art would reach.” See *In re Cortright*, 165 F.3d 1353, 1359 (Fed. Cir. 1999). In this case, Applicant respectfully submits that interpreting a peer agent to be a legacy agent is both inconsistent with the specification and with an interpretation of “legacy agent” that would be reached by one of ordinary skill in the art.

Regarding the specification, paragraph [0015] of the published version defines as legacy network management system as “any network management system capable of exchanging legacy network management messages between network elements in accordance with a legacy management protocol.” Each node includes a legacy agent that “has the ability to respond” to “legacy network management messages.” Because the peer agent of Andrews cannot exchange legacy network management messages, it would be unreasonable to interpret the peer agent of Andrews as equivalent to the recited legacy agent.

As set forth in M.P.E.P. § 2143.03, “all words in a claim must be considered in judging the patentability of that claim against the prior art.” *In re Wilson*, 424

F.2d 1382, 1385 (CCPA 1970). In this case, Applicant respectfully submits that the Office Action has failed to consider the words related to legacy network management messages. While the Examiner alleges that the Office Action is “broadly interpreting the SNMP peer agent” of Andrews to be equivalent to the claim legacy agent, the Office Action lacks any analysis of the claim language related to legacy network management messages.

On page 5, the Office Action alleges that claims 9, 10, and 12 “encompass the same scope of the invention as that of claims 1, 2, and 4-8.” In response, Applicant respectfully submits that the Office Action has ignored the scope of claim 9. In particular, claim 9 recites both a legacy agent and a SNMP agent, a combination of subject matter that the Office Action fails to address.

For the reasons listed above, Applicant respectfully submits that independent claims 1, 9, 13, and 15 are allowable over Andrews.

As set forth in M.P.E.P. § 2144.03, the notice of facts beyond the record which may be taken by the examiner must be “capable of such instant and unquestionable demonstration as to defy dispute.” See *In re Knapp Monarch Co.*, 296 F.2d 230 (CCPA 1961)). Here, the Examiner takes Official Notice without providing such evidence. As further set forth in M.P.E.P. § 2144.03, it is never appropriate to rely solely on “common knowledge” in the art without evidentiary support in the record, as the principal evidence upon which a rejection was based. See *In re Zurko*, 258

F.3d 1379, 1385 (Fed. Cir. 2001). Here, Applicant respectfully submits that the Office Action solely relies upon “upgrading” Andrews without addressing the recited subject matter of legacy network management messages, subject matter that Andrews lacks.

Claims 2-8 depend from claim 1. Claims 10-12 depend from claim 9. Claim 14 depends from claim 13. Claims 16-18 depend from claim 15. Thus, claims 2-8, 10-12, 14, and 16-18 are allowable at least due to their respective dependencies from allowable claims. Thus, Applicant respectfully requests withdrawal of the rejections of claims 1-18.

NEW CLAIMS 19 AND 20

Claim 19 recites: “passing an unsolicited legacy network management message from the legacy agent to a SNMP agent” (emphasis added). Paragraph [0017] of the published version of the specification provides support for this subject matter. Similar subject matter, rewritten in system format, appears in claim 20.

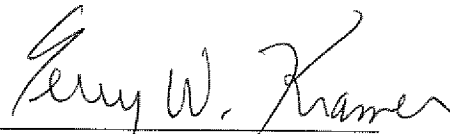
Claim 19 depends from claim 1. Claim 20 depends from claim 9. Thus, claims 19 and 20 are allowable at least due to their respective dependencies from allowable base claims.

CONCLUSION

While Applicant respectfully submits that the instant amendment places the application in condition for allowance, should the Examiner have any further comments or suggestions, it is respectfully requested that the Examiner telephone the undersigned attorney in order to expeditiously resolve any outstanding issues.

In the event that the fees submitted prove to be insufficient in connection with the filing of this paper, please charge our Deposit Account Number 50-0578 and please credit any excess fees to such Deposit Account.

Respectfully submitted,
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